

CALIFORNIA STATE PERSONNEL BOARD MEETING
801 Capitol Mall
Sacramento, California

www.spb.ca.gov

Public Session Location - Room 150
Closed Session Location - Room 141

MID-MONTH BOARD MEETING MINUTES

JUNE 20, 2000

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Florence Bos, President
Ron Alvarado, Vice President
Richard Carpenter, Member
William Elkins, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. An informal briefing on overtime is scheduled for the September 6-7, 2000 Board meeting in Sacramento.
- B. State Personnel Board staff continues to work with the Department of Finance, legislators and sponsors on improvements to the Bilingual Services Program.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on:

- A. Roe v. State Personnel Board - Court of Appeal has set an oral argument on July 27, 2000 at 9:00 a.m. on attorneys fees issue.
- B. Association of California State Attorneys and Administrative Law Judges (ACSA) v. Department of Personnel Administration (DPA) - Judge Connelly denied request for a meeting regarding this case on the grounds that he had no jurisdiction to act given the pending appellate court proceeding.
- C. Contracting out Initiative - This matter will come before the State Personnel Board at its July 6, 2000 meeting.
- D. State Employee Mediation Program - State Personnel Board staff has submitted a presentation outline for the DPA conference.
- E. CEA Examination Rule Revision - State Personnel Board staff received a letter from Professional Engineers in California Government (PECG) expressing concerns with the revised rule that is scheduled for a public hearing at the July 6, 2000 Board meeting. Staff will meet with PECG to discuss their concerns.

4. REPORT ON LEGISLATION - Judy Balmain
(Presented by Walter Vaughn)

The State Personnel Board voted on the following legislative bills:

- A. AB 2799 (Shelley) Release of Public Records - Neutral.
- B. SB 2067 (Bowen) Reproduction of Records/Regulations - Neutral

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

BOARD ACTIONS

5. STATE PERSONNEL BOARD SUMMARY MINUTES OF JUNE 6-7, 2000

ACTION: Adopted on June 20, 2000.

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

6. ADMINISTRATIVE LAW JUDGE CASES

On June 20, 2000, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

PROPOSED DECISIONS

VICTOR RODRIGUEZ, CASE NO. 99-4118

Appeal from official reprimand

Department of Corrections

ACTION: Official reprimand revoked

EDWARD A.HARRIS, JR., CASE NO. 99-2786

Appeal from dismissal

Department of Mental Health

ACTION: Board adopted findings of fact, but modified dismissal to 12 months suspension

MICHAEL E. OSBORN, CASE NO. 00-0615

Appeal from dismissal

Department of Corrections

ACTION: Dismissal modified to 30-calendar day's suspension

VERNON J. BACH, CASE NO. 00-0246

Appeal from 5 working days suspension

Department of Corrections

ACTION: Suspension sustained

JOHN MEDEIROS, CASE NO. 99-4812

Appeal from dismissal

Department of Corrections

ACTION: Administrative Law Judge's proposed decision rejected by Board. Board to decide case itself

THOMAS VALENZUELA, CASE NO. 99-4538

Appeal from dismissal

Department of Corrections
ACTION: Dismissal sustained

RAUL JOSEPH DeJESUS, CASE NO. 99-2495
Appeal from dismissal
Department of Social Services
ACTION: Dismissal modified to 13-month suspension

VICTORIA MORELLI, CASE NO. 99-2022
Appeal from 5 percent reduction in Salary for 12 months
Department of Corrections
ACTION: Reduction in salary revoked

JAMES H. COOPER, CASE NO. 99-1090
Appeal from dismissal
Department of Corrections
ACTION: Dismissal sustained

PATRICE JORDAN, CASE NO. 00-0632
Appeal from dismissal
Department of Developmental Services
ACTION: Dismissal modified to 60-day suspension

SHERI L. McPETERS, CASE NO. 98-2443
Appeal from dismissal
Department of Corrections
ACTION: Dismissal modified to 60-calendar day's suspension

SHERI L. ROTHSTEIN, CASE NO. 99-5296
Appeal from 30-calendar day's suspension
Department of Developmental Services
ACTION: Suspension modified to 10 working days suspension

CHERYL SMITH, CASE NO. 99-3891
Appeal from rejection
Department of Forestry and Fire Protection
ACTION: Not acted upon - under consideration

PETITIONS FOR REHEARING

RICHARD HORTON, CASE NO. 00-0094P
Appeal from termination of limited term appointment
Prison Industries Authority
ACTION: Petition for rehearing filed by appellant denied

ROBERT BURKS, CASE NO. 98-4822P

Discrimination complaint

Department of California Highway Patrol

ACTION: Petition for rehearing filed by respondent granted

CLIFTON TRASK, JR. CASE NO. 99-3346P

Appeal from dismissal

Department of Corrections

ACTION: Petition for rehearing filed by respondent denied

7. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1
EXTENSION.

ACTION: See pages 13-16.

8. MISCELLANEOUS APPEALS DIVISION CASES
(Discrimination Complaints, Withholds, Voided Appointments,
Rule 211 Appeals, Petitions for Rehearing)
On June 20, 2000, the Board adopted the following decision
presented by Linda Brooks, Assistant Executive Officer,
California State Personnel Board.
VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

PETITION FOR REHEARING

- A. FREDRICK GUNNISON, CASE NO. 99-4913P
Classification: Correctional Officer
ACTION: GRANTED

WITHHOLD CASES

- B. MARY SPENCER, CASE NO. 99-0818
Classification: Staff Services Analyst General
ACTION: A) DENIED - B) RESCINDED
- C. Rafael C. Gonzalez, CASE NO. 99-4279
Classification: Correctional Officer
ACTION: GRANTED
- D. SCHON STROUD, CASE NO. 99-4280
Classification: Correctional Officer
ACTION: GRANTED
- E. WENDY TAYLOR, CASE NO. 99-4597
Classification: Correctional Officer
ACTION: GRANTED

- F. RICHARD T. ALBAY, CASE NO. 99-4262
Classification: Cadet, California Highway Patrol
ACTION: DENIED
 - G. MARK ALLEN ECKHARDT, CASE NO. 99-4276
Classification: Motor Vehicle Field Representative
ACTION: DENIED
 - H. DESIREE MCKARRELL, CASE NO. 99-4284
Classification: Correctional Officer
ACTION: DENIED
 - I. DAVID NOVINI, CASE NO. 99-4352
Classification: Water Resources Control Engineer
ACTION: DENIED
 - J. RAYMOND REYNOLDS, CASE NO. 99-4379
Classification: Correctional Officer
ACTION: DENIED
 - K. FRANCISCO SALAS, CASE NO. 99-2198
Classification: Correctional Officer
ACTION: DENIED
 - L. ROBERT A. STORY, CASE NO. 99-4476
Classification: Cadet, California Highway Patrol
ACTION: DENIED
 - M. MERENDA STURGEON, CASE NO. 99-4480
Classification: Correctional Officer
ACTION: DENIED
 - N. DIANA N. VILLARREAL, CASE NO. 99-4477
Classification: Correctional Officer
ACTION: DENIED
9. MEDICAL APPEALS
On June 20, 2000, the Board adopted the following decision presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.
VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.
- A. WESLEY HALL, CASE NO. 00-1393
Classification: Youth Correctional Officer
ACTION: GRANTED
 - B. TAMARA KABBAN, CASE NO. 00-0891
Classification: Correctional Counselor I

ACTION: GRANTED

C. HEATHER A. SOLARI, CASE NO. 00-1246
Classification: Cadet, California Highway Patrol
ACTION: GRANTED

10. EXAMINATION APPEALS

On June 20, 2000, the Board adopted the following decision presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

A. DON ALLIE, CASE NO. 98-5172

Final Filing Date: October 2, 1998
Examination: Supplemental Application,
Competitive Qualifications
And Written Test
Class: Parole Agent I, Adult Parole
Testing Agency: Department of Corrections
Appeal Received: December 29, 1998
ACTION: GRANTED

B. LINDA JOHNSON, CASE NO. 99-2744

Final Filing Date: January 21, 1999
Examination: Supplemental Application
Qualifications
Class: Research Scientist I (Environmental
Epidemiology)
Testing Agency: Department of Health Services
Appeal Received: June 22, 1999
ACTION: GRANTED

11. REQUEST TO FILE CHARGES CASES

On June 20, 2000, the Board adopted the following decision presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

A. RAMON D. BINNS, CASE NO. 99-0722

Classification: Youth Correctional Counselor
ACTION: DENIED

12. NON-HEARING CALENDAR

On June 20, 2000, the Board adopted items B, D and E. Items A and C were withdrawn. These items were presented by Walter Vaughn, Executive Officer, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

- A. WITHDRAWN
 - B. ALPINE COUNTY EMPLOYEES
The Department of Transportation requests that two County of Alpine, Department of Public Works employees be transferred into state civil service.
 - C. WITHDRAWN
 - D. DEPUTY CHIEF, INVESTIGATION DIVISION, EMPLOYMENT DEVELOPMENT DEPARTMENT
The Employment Development Department (EDD) proposes to establish the class of Deputy Chief, Investigation Division, EDD and establish a 12-month probationary period.
 - E. CRIMINAL INVESTIGATOR, EMPLOYMENT DEVELOPMENT DEPARTMENT
The Employment Development Department (EDD) proposes the establishment of a new classification series titled Criminal Investigator, EDD and establishment of a 12-month probationary period for each class in the series.
13. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY
- A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION
 - (1) MANAGER, ENTERPRISE BUSINESS OFFICE
The Department of General Services proposes to allocate the above position to the CEA category. The position will be responsible for providing a single Internet portal to enable California businesses easy access to governmental information and services. The department indicates that the position will be at the third organizational level and will report to the Deputy Director, Management Services Division.
 - B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW CEA POSITIONS
 - (1) DEPUTY COMMISSIONER, FRAUD DIVISION
The Department of Insurance's proposal to allocate the above position to the CEA category has been approved effective May 19, 2000.

- (2) CHIEF, HOSPITAL SECURITY
The Department of Mental Health's proposal to allocate the above position to the CEA category has been approved effective May 22, 2000.
- (3) OMBUDSPERSON
The Department of the Youth Authority's proposal to allocate the above position to the CEA category has been approved effective May 24, 2000.
- (4) DIRECTOR, CALIFORNIA SPECIALIZED TRAINING INSTITUTE
The Governor's Office of Emergency Services proposal to allocate the above position to the CEA category has been approved effective May 24, 2000.

C. REQUESTS TO REFILL CEA POSITIONS ESTABLISHED BETWEEN 6/30/95 AND 1/1/99

- (1) CHIEF, SMOG CHECK OPERATIONS AND ENGINEERING SERVICES
The Department of Consumer Affairs is requesting to refill the above position.

D. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO REFILL CEA POSITIONS ESTABLISHED BETWEEN 6/30/95 AND 1/1/99

- (1) DIRECTOR, PERSONNEL SERVICES DIVISION
The Department of Education's request to refill the above position has been disapproved effective May 19, 2000.
- (2) CHIEF, CALIFORNIA OFFICE OF WORKFORCE INVESTMENT
The Employment Development Department's request to refill the above position has been approved effective May 19, 2000.
- (3) CHIEF, OFFICE OF MEDI-CAL PROCUREMENT
The Department of Health Services request to refill the above position has been approved effective May 22, 2000.

- (4) CHIEF, REGISTRATION SERVICES BRANCH
The Department of Motor Vehicles request to refill the above position has been approved effective May 24, 2000.

- (5) CHIEF, FORENSIC SERVICES
The Department of Mental Health's request to refill the above position has been approved effective May 26, 2000.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. EQUAL OPPORTUNITY GOALS FOR MINORITIES AND WOMEN
(Hearing held February 9, 2000).

NO ACTION

2. JAMES BLANCHARD, CASE NO. 99-3198. Appeal from constructive demotion. Department of Corrections. (Oral argument held May 2, 2000).

NO ACTION

3. APPEAL OF THE INTERNATIONAL UNION OF OPERATING ENGINEERS (IUOE) FROM THE EXECUTIVE OFFICER'S APPROVAL OF CALIFORNIA SCIENCE CENTER'S (CSC) COST-SAVINGS CONTRACT FOR EXPOSITION PARK GROUNDS MAINTENANCE PURSUANT TO GOVERNMENT CODE § 19130 (a). (Hearing held May 2, 2000).

NO ACTION

4. SYLVIA C. SOLIS, CASE NO. 99-0574. Appeal from medical termination. Department of Motor Vehicles. (Written argument presented May 2, 2000).

NO ACTION

5. SANDRA JOHNSON, CASE NO. 99-1256. Appeal from demotion. Department of Corrections. (Oral argument held June 6, 2000).

NO ACTION

6. MICHAEL BRADLEY, CASE NO. 99-3187. Appeal from reinstatement after automatic resignation. California State University, Long Beach. (Oral argument held June 6, 2000).

NO ACTION

Minutes - Page 12
June 20, 2000

7. AARON TUTER, CASE NO. 99-3383. Appeal from dismissal. Department of Corrections. (Oral argument held June 6, 2000).

NO ACTION

8. RUSTY IVERSON, CASE NO. 99-3640. Appeal from 5 percent reduction in salary for 6 months. (Oral argument held June 6, 2000).

NO ACTION

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional forty-five days, the Board hereby publishes its substantial reasons for the need for the forty-five day extension for some of the cases now pending before it for decision.

An additional forty-five days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than 6 months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

June 20, 2000

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on June 20, 2000.

WALTER VAUGHN
Executive Officer
California State Personnel Board

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.